

**REMARKS**

Claims 1-10 are pending. No amendments have been made by way of the present Supplemental submission, thus, no new matter has been added.

**Rejections Under 35 U.S.C. § 112, First Paragraph**

Claim 3 stands rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the enablement requirement. (See, Office Action of November 15, 2007, at pages 3-5). Applicants traverse the rejection as set forth herein.

The Examiner states that the deposit made by Applicants does not satisfy the requirements of the Budapest Treaty on Biological Deposits.

In addition to the response provided on March 17, 2008, Applicants provide the following further assurances. As stated in the previous response, the deposited material *Rhodococcus equi* strain TB-60-DMZ 16175, recited in claim 3, has been accepted for deposit under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the purposes of Patent Procedure. Additionally, any restrictions on the deposit, *Rhodococcus equi* strain TB-60-DMZ 16175, recited in claim 3, will be irrevocably removed upon grant of the patent. Applicants believe these assurances fully satisfy the written description requirements, as also stated by the Examiner at the bottom of page 4 of the Office Action.

Therefore, reconsideration and withdrawal of the rejection of claim 3 are respectfully requested.

### CONCLUSION

If the Examiner has any questions or comments, please contact Thomas J. Siepmann, Ph.D., Registration No 57,374, at the offices of Birch, Stewart, Kolasch & Birch, LLP.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: **MAR 26 2008**

Respectfully submitted,

By 

Marc S. Weiner  
Registration No.: 32,181  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
8110 Gatehouse Road  
Suite 100 East  
P.O. Box 747  
Falls Church, Virginia 22040-0747  
(703) 205-8000  
Attorney for Applicants